IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1218 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G S R T C - Appellant(s)
Versus
RASULBHAI YUSUFBHAI MUKHI & 1 - Defendant(s)

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Appearance :
MR HEMANT S SHAH for Appellant,
MR JA ADESHRA for respondent Nos.1 and 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 27/04/2007

ORAL JUDGMENT

1. Heard Mr.Hemant S.Shah, learned counsel for the appellant and Mr.J.A. Adeshra, learned counsel for the respondents - claimants.

2. The appellant – Gujarat State Road Transport Corporation (“the Corporation” for short), being aggrieved by the impugned Judgment and Award dtd.4th November, 1992 passed by the learned Motor Accident Claims Tribunal (Auxi.), Mehsana (“the tribunal” for short) in Motor Accident Claim Petition No.320 of 1987 awarding a sum of Rs.1,00,000=00 (Rupees One Lac only) with 12% interest in favour of the respondents – claimants, is before this Court.

3. Short facts necessary for disposal of present appeal are that Yakubbhai son of the respondents – claimants on 10/12/1986, was to go to Patan, he was standing near S.T. Stand on Kutcha road of Vadani, at the said time, one S.T. Bus bearing No.GRU-7416 came from Deesa side, according to the submissions of the respondents – claimants, the bus was driven rashly and negligently, it hit the deceased, as a result of which, the deceased fell down, the bus ran over the deceased and the deceased died on the spot. The respondents – claimants filed the claim petition submitting inter-alia that they were entitled to a sum of Rs.1,00,000=00 towards the loss of income or dependency.

4. The appellant – Corporation appeared before the tribunal and contested the matter on almost every possible grounds.

5. After recording evidence and hearing the parties, the learned tribunal awarded a sum of Rs.90,000=00 towards the loss of income and a sum of Rs.10,000=00 towards expectation of loss of the company.

6. Mr.Shah, learned counsel for the appellant – Corporation submits that where the appellants are parents, a Court must reduce the amount at least by 50%, because for all the time to come, the deceased could not have provided the financial assistance and the age of such parents would be the criteria for making the deductions. Placing reliance upon the judgment of the Supreme Court in the matter of Maharashtra State Road Transport Corporation Vs. Lalnipuii, reported in 2007 A.C.J. 561 (S.C.), it is submitted by the learned counsel for the appellant Corporation that when the claimants are parents, the amount must be reduced by 50%. In the present matter, the claimants have produced sufficient evidence before the tribunal that the deceased a young boy of 17 years,

was earning a sum of Rs.800=00 at the thresh-hold of his career. Usmanbhai, a person who had employed Yakubbhai (deceased) appeared before the tribunal as a witness and has stated that he was paying salary of Rs.800=00 per month to the deceased. Contrary to this evidence, no other evidence has been brought on the record.

7. The learned tribunal, in the opinion of this Court, was not unjustified in holding that the monthly income of the deceased was Rs.800=00, but while deciding so, the tribunal did not take into consideration the future prospects and any likelihood of increase in the earning of the deceased. If a person at the age of 17 years is drawing a sum of Rs.800=00 then, his future prospects can be calculated at Rs.1600=00 per month, out of this total amount of Rs.1600=00 per month, if 50% deduction is given, the parents would be entitled to Rs.800=00 per month as dependency or it would be Rs.9600=00 per annum. As the age of the parents was approximately 40 years, the appropriate multiplier would be 12. The total dependency would be Rs.1,15,200/-, the tribunal has awarded a sum of Rs.90,000=00 only towards the loss of

the income which, in the calculation of this Court, was on the lower side, but, as the respondents - claimants had claimed a sum of Rs.1,00,000=00 only, this Court cannot help the respondents – claimants.

8. The appeal deserves to and is accordingly dismissed. No costs.

(R.S. GARG, J.)

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